



## County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA  
Chief Executive Officer

January 29, 2013

To: Supervisor Mark Ridley-Thomas, Chairman  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

From: William T Fujioka  
Chief Executive Officer

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John F. Krattli  
County Counsel

A handwritten signature in black ink, appearing to be "J. F. Krattli", written over a horizontal line.

Board of Supervisors  
GLORIA MOLINA  
First District

MARK RIDLEY-THOMAS  
Second District

ZEV YAROSLAVSKY  
Third District

DON KNABE  
Fourth District

MICHAEL D. ANTONOVICH  
Fifth District

### **JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2011-12**

Pursuant to an October 16, 2007 motion by Supervisor Molina, the Board instructed the Chief Executive Officer (CEO) County Risk Manager and County Counsel Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles (County) exposure to litigation. Pursuant to the motion, the report is also to identify joint goals and objectives for subsequent fiscal years. As noted on our November 9, 2010 report to the Board, the goals and objectives portion of subsequent reports was separated from this report to be submitted in the Spring. The *Joint Report of Risk Management Goals and Objectives – Fiscal Year 2011-12*, was issued to the Board on July 8, 2011.

In addition, on November 5, 2008, on a motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board directed the CEO, County Counsel, County Risk Manager, and other Department Heads, as appropriate, to create a Legal Exposure Reduction Committee (LERC) that shall meet quarterly; establish an annual Countywide and departmental legal exposure reduction goal; create proactive County Counsel procedures to advise departments on various methods to reduce legal cost; create procedures to discuss areas of potential exposure, develop and implement specific strategies calculated to prevent future claims and lawsuits; provide updated training on new changes in laws and policies for each appropriate department to implement; assess the efficacy of corrective action plans; review management training and implementation of County policies; review lessons learned; discuss areas of potential exposure; develop and implement specific strategies calculated to prevent future claims and lawsuits; and report annually on their progress and efforts.

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The attached Joint Report responds to both of these directives since the LERC's activities represent one of the joint efforts between the CEO and County Counsel. Identified in the report are joint accomplishments of FY 2011-12, which demonstrate the continuing, collaborative efforts of the CEO and County Counsel to manage the County's risks and reduce its litigation exposure.

For additional information, your staff may contact Steven E. NyBlom at (213) 738-2214, or Steven H. Estabrook at (213) 974-1762.

WTF:JF  
SEN:SE:sg

Attachment

c: All Department Heads

**JOINT REPORT  
CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND  
COUNTY COUNSEL LITIGATION COST MANAGER  
REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2011-12**

**Legal Exposure Reduction Committee**

The Legal Exposure Reduction Committee (LERC) has become the forum for departments to share best practices and identify new solutions to common risk-related problems. LERC is also the vehicle for advancing the County of Los Angeles (County) Strategic Plan relative to the Risk Management Initiative focused on reducing the cost of workers' compensation and return-to-work (RTW) programs, vehicle liability, and employment practices liability.

LERC met seven times during FY 2011-12, and some of the items discussed included:

- Status updates from the Sub-Committees:
  - Classification Studies;
  - Employment Practices Liability;
  - Medical Malpractice (Hospital and Non-Hospital);
  - Training and Communication;
  - Vehicle Liability; and,
  - Workers' Compensation and Return-to-Work.
- Updates on recommendations submitted by the various Sub-Committees and County Counsel;
- County Equity Oversight Panel Complaint Process;
- County Counsel quarterly litigation reports;
- A review of the top paid judgments and settlements;
- Departmental Risk Management Overview presentations to the Board Deputies; and,
- Announcements about various training opportunities, including training for Risk Management Coordinators, Safety Officers, and RTW Coordinators.

Updates regarding LERC activities and the status of recommendations were provided in the April 2, 2012 and June 22, 2012 Board letters. The Litigation Cost Manager has met with the Acting Risk Manager to discuss recommendations to be included in County Counsel's Annual Litigation Report. These recommendations will be reviewed and evaluated according to the timelines set forth in the June 22, 2012 memorandum.

Previously submitted recommendations include the following:

**Vehicle Liability**

1. Discussions relating to the Department of Motor Vehicles (DMV) Pull Notice Program have been held with affected unions and several departmental policies have been developed. The feasibility of establishing a Countywide standard is being studied and this program will be implemented in appropriate departments by the end of the fiscal year.

### Vehicle Liability (Continued)

2. The Department of Health Services (DHS) has developed and implemented a modular enterprise motor vehicle safety training program that was first made available to DHS employees in June 2012, through the "Learning Net," then made available Countywide in January 2013.

### Workers' Compensation and Return-to-Work

3. A field was established in the eHR Payroll/Time Collection system to identify employees who have agreed not to seek County employment in the future as part of a settlement agreement.
4. The Fire Department has implemented the "Light Duty Assignment Desk" and has presented the concept to departmental Risk Management Coordinators for their consideration.
5. The return-to-work promotional campaign is still being developed and will be implemented by April 1, 2013.
6. A provision to use evidence-based disability guidelines (MD Guidelines or Official Disability Guidelines) to establish expectations and goals in the RTW process and for such information to be provided to the department RTW Coordinator was included in the Request for Proposals (RFP) for workers' compensation claims administration services.
7. Guidelines to improve the application of Civil Service Rule 16 have been fully implemented at DHS. Training material is being developed and training will be provided by April 2013 for RTW Coordinators, Risk Management Coordinators, and departmental Human Resources Managers.

### Classification Studies

8. Departments submitted their comments regarding safety staffing levels in their FY 2012-13 Risk Exposure Cost Avoidance Plan documents. Several departments are using this evaluation as support for requesting additional resources in their FY 2013-14 budgets.

### Training and Communication

9. Recommendations for changes to performance evaluation language have been submitted to the Department of Human Resources (DHR) and will be considered as part of the overall review of the performance evaluation process. Changes will be implemented by June 30, 2013.
10. Best practices have been identified and contact is being made with a video production company to begin recording messages. A "LERC Best Practices Knowledge Library" is being developed and will be implemented by April 1, 2013.

## Employment Practices Liability

11. Information about proposed legislation to address the attorneys' fee issue in employment cases was developed and shared with the Chief Executive Office's (CEO) Intergovernmental and External Affairs, along with other legislative proposals.

## **Departments' Reports to Clusters**

Annual Departmental Risk Management Overview presentations started in July 2012, and half of the departments have already presented. The remaining presentations are being scheduled. These presentations have generated much dialogue. As best practices are identified, these are shared with appropriate departments.

## **Risk Management Information System**

Enhancements to the Risk Management Information System (RMIS) were made to provide County Counsel, CEO staff, and the CEO's Third Party Administrators (TPAs), better functionality to effectively manage the County's tort liability claims and litigation processes. The status of the two work orders is:

- Work Order 13, which includes system enhancement for eCAPS time collection and creating interface to eCAPS, has been completed.
- Work Order 14, enhancements of the Online Business Intelligence Tool (ORBIT), which is used by departments to create and manage liability data reports, was canceled due to the program moving in a different direction as explained below.

A project team composed of CEO Information Technology Services, CEO Risk Management Branch, and County Counsel was created to evaluate alternative ways of managing both liability and workers' compensation claims. One approach considered was to migrate this responsibility to the TPAs, all of whom are able to more frequently update technology than the County, and to provide management reports through a data aggregation system.

A second approach was to exercise a contract option in the County Counsel contract with CT TyMetrix T360 (T360), the e-billing system which interfaces with RMIS to provide streamlined processing and enhanced cost-control tools for attorney billings. The T360 contract includes an option for "matter management" functionality, which has, with some reconfiguration, the capacity to replace the RMIS system. County Counsel and CEO Risk Management Branch exercised the "matter management" option, which will provide lower-cost services as a replacement for the current RMIS system. The current contract with the RMIS vendor, Risk Technology, Inc. (RTI), was extended until June 2014, which will allow the CEO and County Counsel to migrate RTI users and fully test the T360 system. Once the new system is fully functional and the County accepts the T360 system, Contract No. 73275 with RTI will be terminated.

## **Claim Intake and Adjusting Process**

The CEO and County Counsel participated in a joint effort to evaluate the roles and responsibilities of the CEO, County Counsel, and the TPA in the handling of claims intake and the claims adjustment process. Consideration was given to shifting certain functions performed by County Counsel to CEO and the TPA. At the conclusion of the assessment, it was determined that a realignment of the departments' roles and responsibilities was not warranted.

### **Electronic Bill Review System**

The T360 system became fully operational on October 17, 2011. The new system has been linked to the current RMIS system and has replaced the previous paper-based invoice review and approval process. All invoices submitted by Contract Law Firms are now processed through the T360 system, including all litigated matters. In February 2012, County Counsel Litigation Case Budget forms were inputted into the T360 budgeting system and all Contract Law Firms are now required to utilize these forms when submitting budgets through T360. The Uniform-Tasked-Based Management System codes utilized in the T360 system were linked to the County Case Budgets to permit real-time spend-versus-budget analysis and Line Item Audits. An invoice submitted by a Contract Law Firm cannot be paid unless a budget has been established and all expenditures are within that budget. In March 2012, the County exercised its option under the T360 agreement to utilize and configure the T360 Matter Management System to County requirements. County Counsel and the CEO Risk Management Branch are currently collaborating on the implementation of this matter management system, which will replace the current RMIS system. The target date for implementation of the T360 Matter Management System is June 1, 2013, and, if implemented at that time, will result in a savings of \$1.7 million through Calendar 2016.

### **Inmate Litigation Pricing Model Study**

In an effort to explore pricing models which provide an alternative to the current billable hour arrangement regarding *pro per* Law Enforcement custody cases, County Counsel identified and examined all litigated cases brought by inmates during a one-year period seeking damages against the County for incidents occurring in the County jails. Because of the limited number of such custody cases, the examination was expanded to include all Law Enforcement actions brought against the County by *pro per* plaintiffs. The analysis of these cases revealed that the average per case expenditure of fees and costs for such cases was a relatively modest amount and did not warrant the application of an alternative billing model at this time. Consideration is now being given to the application of such pricing alternatives to inmate medical malpractice actions.

### **Department-Level Employee Complaints**

In an effort to assist departments with the early evaluation and, if possible, resolution of employment-related, department-level complaints, it is necessary to ensure that the department representatives make contact with both Countywide DHR and a County Counsel attorney who is assigned to, and familiar with, the business operations and responsibilities of that department. Departments were advised of the name and contact information for the lead counsel assigned to them for the purpose of providing advice and direction on all labor and employment issues, including pre-claim questions, pre-litigation claims, and activities by the CEOP and administrative bodies, such as the Civil Service Commission, ERCOM, and non-County agencies (i.e., Department of Labor, EEOC, DFEH, etc.). In addition, the County Counsel attorneys who provide labor and employment advice, and those who provide general advice to the client departments, coordinate, when necessary, to better facilitate and expedite meeting the departments' needs. Further, the Employment Claims Review Project was extended to include the coordination of previous claims and performance management issues to assist in the evaluation and possible early adjustment of claims. County Counsel provides a regular and interactive presence at the Countywide Equity Oversight Panel briefings allowing for a full discussion and evaluation of equity complaints and their impact on existing and developing County policies, as well as working relationships with the designated advisor to the Equity Oversight Panel and departmental attorneys to allow for the immediate and appropriate

resolution of findings of policy violations and associated disciplinary actions. Finally, County Counsel continues to participate in internal departmental management meetings, as necessary and requested, to address human resources-related decisions in advance of implementation of employment decisions in an effort to mitigate exposure relating to such decisions.

The Board of Supervisors approved additional resources for County Counsel to increase employment-related assistance and legal guidance to departments for FY 2012-13.

### **Quarterly Employment Bulletin**

Rather than issue a quarterly Employment Bulletin directed only to a limited number of departments, County Counsel has elected to team with DHR in jointly producing a periodic bulletin to be sent to Human Resources Managers at all departments. The bulletin will contain Human Resources articles and other pertinent material of interest to Human Resources Managers. The bulletin will also contain a section dedicated to Employment law, currently intended to be entitled "County Counsel's Corner," which will provide updates and analyses regarding changes in the law, pertinent case results, trends, and advice. The new bulletin will provide up-to-date contact information regarding those attorneys currently available to provide advice in specific employment areas. It is anticipated that the first installment will be issued by Spring 2013.

### **Third-Party Administrators – Carl Warren & Company and Sedgwick Claims Management Services**

The contract with Carl Warren & Company (Carl Warren) was extended through August 14, 2013, and included a four percent (4%) cost reduction (\$74,734) and minor revisions to the contract. One revision addresses contractor staffing levels and another modifies the contractor's responsibility for general litigation responsibilities. County Counsel has assumed more responsibility for these claims. An RFP has been initiated to be effective upon expiration of this contract. The Statement of Work contained in the RFP re-defines the responsibilities of County Counsel and Carl Warren regarding litigation matters, and limits the involvement of Carl Warren in certain areas, including Auto and General Liability cases. It is anticipated that the new Statement of Work will reduce the costs of the new contract.

The contract with Sedgwick Claims Management Services (Sedgwick) was extended through December 31, 2015, and included a \$1,957,986 cost reduction (\$652,662 annual savings) and revisions to the Statement of Work to improve efficiency, eliminate unnecessary or obsolete terms, and revise practices which have been superseded by County Counsel Litigation Protocols.